

**INDIANA BOARD OF PHARMACY
Indiana Government Center South
402 West Washington Street, Room W064
Indianapolis, IN 46204**

MINUTES OF SEPTEMBER 9, 2019

Mark Smosna, R.Ph., President, called the meeting to order at 8:30 a.m. and declared a quorum in accordance with IC 25-26-13-3(d), pursuant to public notice posted at the principal office of the board at least forty-eight (48) hours before the time of the meeting.

Members Present: Mark Smosna, R.Ph., President
Donna Wall, R.Ph., Member
Winnie Landis, R.Ph., Member (left at 6:45pm)
Matt Balla, R.Ph., Vice President
Del Fanning, R.Ph., Member

Members Absent: Steven Anderson, R.Ph., Member

Staff Present: Darren Covington, J.D., Board Director
Professional Licensing Agency
Jody Edens, Assistant Board Director
Professional Licensing Agency
Zaneta Nunnally, Compliance Director
Professional Licensing Agency
Nicole Schuster, J.D., Deputy Attorney General
Office of the Attorney General

The Board voted to adopt the agenda as amended.

Landis/Balla, 5/0/0
Motion carries

The following board members voted aye:
Winnie Landis, Donna Wall, Mark Smosna, Matt Balla, Del Fanning
The following board members voted nay: none
The following board members abstained: none

The Board voted to approve the August 12, 2019 minutes as written.

Landis/Balla, 4/0/1 with Mr. Fanning abstaining
Motion carries

The following board members voted aye:
Donna Wall, Mark Smosna, Winnie Landis, Matt Balla, Del Fanning
The following board members voted nay: none
The following board members abstained: none

FULL BOARD APPEARANCES

Jana Dorsey, Major Hospital – Pyxis Machine Shared by in-patient & out-patient pharmacy:

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Matt Balla, R.Ph., Del Fanning, R.Ph.

No one appeared on behalf of this matter, therefore the Board continued it to the October meeting.

Harpers Pharmacy d/b/a Ameripharma:

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Matt Balla, R.Ph., Del Fanning, R.Ph.

No one appeared on behalf of this matter, therefore the Board continued it to the October meeting.

KEBD Enterprises d/b/a Belmar Pharmacy – Non Resident Change of Ownership

App:

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Matt Balla, R.Ph., Del Fanning, R.Ph.

Kristen Youngdahl, R.Ph., PIC appeared on behalf of this matter.

In 2013, KEBD received a letter of warning from Louisiana Board for shipping into their state prior to receiving a license. Several states followed with sister action.

In 2015, Colorado took action and issued a letter of admonishment for shipping into Colorado without putting their DEA number on the shipping order invoice. Several states followed with sister action.

After discussion, the Board moved to APPROVE KEBD Enterprises d/b/a Belmar Pharmacy's Non Resident Change of Ownership Application.

Wall/Balla, 5/0/0
Motion carries

The following board members voted aye:
Donna Wall, Mark Smosna, Winnie Landis, Matt Balla, Del Fanning

The following board members voted nay: none
The following board members abstained: none

Riverview Health Freestanding Emergency/Urgent Care Fishers – Remote

Location App:

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Matt Balla, R.Ph., Del Fanning, R.Ph.

Brian Peters, R.Ph., PIC and Jared Stark both appeared on behalf of this matter.

Riverview Health has a freestanding urgent care center. They are requesting to put an Omnicell cabinet in it. It will be filled by Riverview Health Pharmacy staff. All medications will be secure in the Omnicell.

After discussion, the Board moved to APPROVE the Remote Location Application.

Balla/Wall, 5/0/0
Motion carries

The following board members voted aye:
Donna Wall, Mark Smosna, Winnie Landis, Matt Balla, Del Fanning
The following board members voted nay: none
The following board members abstained: none

Beacon Granger Hospital, A Memorial Hospital Extension – Remote Location

App:

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Matt Balla, R.Ph., Del Fanning, R.Ph.

Jeannie Henderson, Director of Pharmacy appeared regarding this matter.

They are building an off-site facility with a few beds. They are requesting to place Pyxis machines in three separate rooms in the facility. All controlled substances will be secured in the Pyxis machine.

After discussion, the Board moved to APPROVE the Remote Location Application.

Balla/Wall, 5/0/0
Motion carries

The following board members voted aye:
Donna Wall, Mark Smosna, Winnie Landis, Matt Balla, Del Fanning
The following board members voted nay: none
The following board members abstained: none

Ascension St. Vincent Oncology – Remote Location App:

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Matt Balla, R.Ph., Del Fanning, R.Ph.

Vivian Wright, Consultant and Dan Schnur both appeared regarding this matter.

They purchased a physician office and took half of it and turned it into a clean room. They want to put a Pyxis machine in it and have a clean room pharmacy. A pharmacist will be on duty at all times it's open.

After discussion, the Board moved to APPROVE the Remote Location Application.

Wall/Fanning, 5/0/0
Motion carries

The following board members voted aye:

Donna Wall, Mark Smosna, Winnie Landis, Matt Balla, Del Fanning

The following board members voted nay: none

The following board members abstained: none

Lori Skwarcan, R.Ph., PIC, Director of Pharmacy, Central Region St. Vincent – Waiver request/discussion:

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Del Fanning, R.Ph.

Let the record reflect that Matt Balla, R.Ph., recused himself from this matter and left the room.

Ms. Skwarcan is requesting guidance from the Board regarding the following:

In their Outpatient therapy center they have a remote location (Pyxis machine). The therapy center is a department of the hospital even though it's not connected to the hospital.

They want to create a segregated compounding section using Technicians to do the compounding. They would be remotely supervised by the Pharmacist at the 86th Street Pharmacy. They would only service eight (8) to fifteen (15) patients per day.

Video monitoring will be installed, which takes pictures of each step the Technician is doing and allows for the Pharmacist to review them before moving on. The pictures are also stored for future review if needed. They will also have skype and audio ability.

The Board determined this would be a remote location without a machine. They will keep the Pyxis machine – it is already licensed as a remote.

Richard Green & Kara Weatherman – USP 825 Presentation:

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Matt Balla, R.Ph., Del Fanning, R.Ph.

They presented their perspective on the new USP 825.

The Board thanked them for their presentation.

PROBATIONARY APPEARANCES

Participating Members: Donna Wall, R.Ph., Mark Smosna, R.Ph., Winnie Landis, R.Ph., Matt Balla, R.Ph.

The following made their probationary appearance:

Emmylou Melton
Nichole Nordeen
Jennifer Coy
Lucas Sweet
Colton Martz
Charles Gabet
Kelley Branchfield
Nicholas Scarpino

Maria Henderson – did not appear for the second (2nd) time in a row.

After discussion, the Board indicated to issue an Order to Show Cause for Ms. Henderson.

The Board thanked Ms. Nunnally for her report.

PERSONAL APPEARANCES

The following did not appear for their scheduled personal appearance:

- **Eric Horton, Intern Permit App – continued**
- **Steve Utterbach – Tech in Training App - continued**
- **Madison Dischinger – Tech in Training App – continued**

Ngoc Nguyen – NAPLEX Repeat Exam Application:

Ms. Nguyen appeared before the Board and discussed her studying habits.

After discussion, the Board moved to APPROVE Ms. Nguyen's NAPLEX repeat exam application.

Balla/Landis, 5/0/0

Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Noor Abdulshahib – MPJE Repeat Exam Application:

Ms. Abdulshahib appeared before the Board and discussed her studying habits.

After discussion, the Board moved to APPROVE Ms. Abdulshahib's MPJE repeat exam application.

Landis/Fanning, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Dan Tam Nguyen – MPJE Repeat Exam Application:

Ms. Nguyen appeared before the Board and discussed her studying habits.

After discussion, the Board moved to APPROVE Ms. Nguyen's MPJE repeat exam application.

Wall/Landis, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Marshall Haynick – MPJE Repeat Exam Application:

Mr. Haynick appeared before the Board and discussed her studying habits.

After discussion, the Board moved to APPROVE Mr. Haynick's MPJE repeat exam application.

Wall/Balla, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none

The following board members abstained: none

Briana Thompson-Vargas – Pharmacist Exam App:

Ms. Thompson-Vargas appeared before the Board regarding her pharmacist examination application and was not represented by counsel.

She was charged with leaving the scene of an accident. She thought a deer hit the side of her car, when it was actually a person. She did not stop.

She stated she was sober and it was 2:30a.m. when it happened. She was going down the road and something ran into the front side of her car. She indicated it was very dark and she thought it was a deer. It was in fact a person that ran out into the street into the respondent's car. The pedestrian was drunk and was going across the street to the mini-mart when she ran into the car.

Ms. Thompson-Vargas was placed on criminal probation until March 2020. She has completed a three (3) days of community service.

After discussion, the Board moved to APPROVE Ms. Thompson-Vargas' application on INDEFINITE PROBATION with terms and conditions.

Wall/Balla, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Johnnie Allen, Technician in Training App:

Mr. Allen did not appear in person and was not represented by counsel regarding his technician in training application.

This is the second time Mr. Allen did not appear.

After discussion, the Board moved to DENY Mr. Allen's technician in training application.

Wall/Fanning, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Cynthia Fehribach, Technician in Training App:

Ms. Fehribach appeared in person and was not represented by counsel regarding her technician in training application.

Sara Matthews, R.Ph., PIC and Jack Downing, R.Ph., District Manager both appeared regarding this matter.

During a routine inspection it was found that Ms. Fehribach had been working in the pharmacy as a technician without a license. Ms. Fehribach indicated she worked in the pharmacy from August 2018 to July 31, 2019.

Ms. Matthews informed the Board that she wasn't the PIC that hired Ms. Fehribach that she began with the pharmacy on October 5, 2018 but she understands that it is her responsibility to make sure all staff is appropriately licensed.

Mr. Downing indicated that they have redone their policies and procedures to include verification of licensing information. The PIC will be responsible for checking for license renewals and new issuances.

Ms. Edens informed the Board that this was not the first tech that was working without a license. At the time the Compliance Officer contacted Ms. Edens requesting she review two technician licenses, both technicians were without an active license. Ms. Edens indicated that one other technician was licensed but had not renewed her license. It was in office but had not been processed. She was working that day, so Ms. Edens processed the renewal immediately so she could continue working.

After discussion, the Board moved to APPROVE Ms. Fehribach's technician in training application.

Wall/Balla, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Katherine Cassel, Technician in Training App:

Ms. Cassel appeared in person and was not represented by counsel regarding her technician in training application.

Ms. Cassel informed the Board that after her Father passed away, she and her sister smoked Marijuana. She was driving a car and was stopped for speeding. She took a sobriety test and passed it. She was taken to the Hospital where they did a blood test in which she tested positive for Marijuana.

She indicated to the Board that when she lived back in Wisconsin she smoked a lot of Marijuana.

She is now enrolled in college to obtain a Nursing degree with minors in Psychology and Chemistry.

After discussion, Donna indicated to TABLE this matter as she wants her to obtain an addictionology evaluation and reappear.

Wall/Balla, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Yasminda Young, Technician in Training App:

Ms. Young appeared in person regarding her technician in training application and was not represented by counsel.

Let the record reflect that Mark Smosna recused himself from this matter and left the room.

Ms. Young has had a total of nine (9) arrests since 2004 but hasn't had any since 2014.

After discussion, the Board moved to APPROVE Ms. Young's technician in training application.

Landis/Fanning, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Ryan Griffin, Pharmacist Exam App:

Mr. Griffin appeared in person and was not represented by counsel regarding his pharmacist examination application.

Tracy Traut, MS, Program Director with IPRP spoke on behalf of Mr. Griffin.

Mr. Griffin informed the Board that his Ohio license was suspended due to diversion and his own use of the medications. He is currently working a Eli Lilly's. He wants to be able

to practice as a pharmacist in the future.

Ms. Traut indicated that he signed a three (3) year contract on February 16, 2018. He goes to weekly AA meetings; meets with his sponsor. Tracy indicated he is extremely compliant with his program.

Mr. Griffin informed the Board that he attends several recovery conferences and that his sobriety date is January 11, 2016.

After discussion, the Board moved to APPROVE Mr. Griffin's pharmacist examination application on INDEFINITE PROBATION with terms and conditions.

Wall/Fanning, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Christian Williams, License No. 45021366A Intern Permit Renewal:

Mr. Williams appeared in person and was not represented by counsel regarding his intern permit renewal application.

In March 2019, after finishing mid-terms, Mr. Williams and his friends when to a Bar where he was arrested by the Excise Police for possession of a fake ID and underage drinking.

Butler is aware of this and he had to complete sixty (60) hours of community service.

After discussion, the Board moved to APPROVE Mr. Williams's intern permit renewal.

Fanning/Landis, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Jacob Neiman, License No. 45020007A Intern Permit Renewal:

Mr. Neiman appeared in person and was not represented by counsel regarding his intern permit renewal application.

On February 28, 2019, he and some friends went out drinking. He was driving home and was pulled over by the Police. He failed the sobriety test. His BAC was .2

He has three (3) more months of criminal probation which includes a device on his car in which he had to do a breathalyzer to start the car.

He is in Kentucky's PRN program and will be in it until he graduates. Sullivan University is also aware of his issue and he meets with them quarterly.

After discussion, the Board moved to APPROVE Mr. Neiman's intern permit renewal.

Fanning/n 2nd
Motion fails

After further discussion, the Board moved to TABLE this matter until he has completed his court probation in three (3) months.

Wall/Fanning, 5/0/0
Motion carries

The following board members voted aye:

Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla

The following board members voted nay: none

The following board members abstained: none

Miranda Milzarek, License No. 45019521A Intern Permit Renewal:

Ms. Milzarek appeared in person and was not represented by counsel regarding her intern permit renewal.

On March 28, 2019, Ms. Milzarek met friends at a Bar to celebrate her birthday. While taking the friends home she was arrested and charged with a DUI. Her BAC was .245

On May 7, 2019 she was placed on criminal probation until May 2020.

She indicated that Purdue University is aware of her issue and she was required to complete a twelve (12) hour alcohol class and write a reflective paper on the incident.

After discussion, the Board moved to TABLE this matter for an addictionology evaluation and proof that Purdue is aware of the issue.

Wall/Landis, 5/0/0
Motion carries

The following board members voted aye:

Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla

The following board members voted nay: none

The following board members abstained: none

ADMINISTRATIVE HEARINGS

The following administrative hearings were continued:

- Joseph Coleman, R.Ph., License No. 26019443A, Cause No. 2019 IBP 0044
- Edmund Gunn, R.Ph., License No. 26015894A, Cause No. 2019 IBP 0046
- Jeanette Strickland, R.Ph., License No. 26024352A, Cause No. 2019 IBP 0043
- Carol Doorenbos, R.Ph., License No. 26015533A, Cause No. 2019 IBP 0045

Kristopher Conner, Ph.T., License No. 67018451A, Cause No. 2019 IBP 0027

Respondent did not appear in person and was not represented by counsel regarding a Summary Suspension Extension scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

The Respondent was charged with the following crimes:

- Count I - Felony 5 – Child Exploitation with intent to satisfy/arouse sex desires, Def. knowingly
- Count II - Felony 6 – Possession of Child Pornography possession of photos, etc. showing sexual conduct

He was sentenced as follows to the Indiana Department of Correction as a Level 6 offender:

- Count I – Six (6) years
- Count II – Two (2) years and 182 (one hundred eighty two) days

He was also charged with fifteen (15) more crimes, all of which were dismissed in a plea agreement but the following three (3):

- Count XI – Felony 5 - Child Seduction
- Count XIII – Misdemeanor – Invasion of Privacy – Violates a not contact order issued
- Count XV – Felony 5 – Child Seduction

He was sentenced as follows to the Indiana Department of Corrections as a Level 6 offender:

- Count XI – Six (6) Years
- Count XIII – One (1) year
- Count XV – Five (5) years and One hundred eighty two (182) days

States Exhibits:

- C – Court documents
- D – Court documents

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter the Board moved to EXTEND the SUMMARY SUSPENSION for ninety (90) days.

Wall/Balla, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Brooke Sivits, P.T.I.T., License No. 99089283A, Cause No. 2019 IBP 0033

Respondent did not appear in person and was not represented by counsel regarding a Summary Suspension Extension scheduled before the Board. The State of Indiana was represented by Stacy Oliver, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

Ms. Sivits was charged with the following:

- Count I – Possession of a Controlled Substance, Class A Misdemeanor
- Count II – Theft, Class A misdemeanor

In a plea bargain she pled guilty to count II if they would dismiss count I. She was sentenced to LaGrange County Jail for a term of imprisonment of one (1) year.

States Exhibit:
A – Court documents

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter the Board moved to EXTEND the SUMMARY SUSPENSION for ninety (90) days.

Fanning/Balla, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

George Agapios, M.D., License No. 01045802B, Cause No. 2016 IBP 0003

Respondent appeared in person and was not represented by counsel regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Stacy Oliver, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

Back in June 2016, the Board placed Dr. Agapios' controlled substance registration on indefinite probation.

He does primary care. He indicated he has not prescribed suboxone nor will he.

He has complied with all terms of his probation with the Board.

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter the Board moved to WITHDRAW the ORDER of PROBATION.

Landis/Fanning, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Angela Bell, Ph.T., License No. 67034062A, Cause No. 2019 IBP 0030

Respondent appeared in person and was not represented by counsel regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Stacy Oliver, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

Ms. Bell submitted court document showing that her charges have been dismissed as of May 24, 2019.

She has not had any new criminal matters.

Respondents Exhibit
1 – Court documents

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter the Board moved to WITHDRAW the Order of Probation.

Landis/Wall, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Alexandra Bilbrey, R.Ph., License No. 26022253A, Cause No. 2015 IBP 0051

Respondent appeared in person and was represented by counsel Todd Ess regarding a Petition to Reinstate scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

Tracy Traut, MS, Program Director with IPRP and Cain Bilbrey were sworn in as a witnesses.

Ms. Bilbrey's license has been suspended since April 15, 2015. At this time she was diagnosed with Bipolar Disorder. She has since been diagnosed with Schizoaffective Disorder – Bipolar type.

She is currently under the care of Stefania Aegisdottir, Ph.D. HSPP. Ms. Bilbrey has been meeting with Dr. Ageisdottir for individual counseling sessions since January 10, 2018. Dr. Ageisdottir also completed a fitness for duty evaluation on January 10, 2018 where she indicates that Ms. Bilbrey presented as fit for duty. She also gave some recommendations for Ms. Bilbrey to continue with.

Ms. Bilbrey also completed a fitness for duty with IPRP on February 4, 2019 and their recommendation was that she could return to work providing she abides by the following treatment recommendations:

- Continue to work with and follow all treatment recommendations by her psychiatrist
- Continue medication management
- Remain abstinent from substances
- Sign a three (3) year recovery monitoring agreement with IPRP
- Randomized UDS

On March 14, 2019 she completed a fitness for duty with Mike Denton, M.S., LACA, LMFT. Mr. Denton indicated the following "It is my opinion that Alexandra does not meet the criteria for a diagnosis of chemical dependency. I would recommend she continue to be followed by her psychiatrist, therapist and attend her monthly NAMI meetings."

Cain Bilbrey is Alexandra's husband. He testified that she had a break-down and at that time he filed for full custody of their two year old daughter and filed for divorce. He believes the stress of not seeing her daughter assisted in making her mental state worse. He indicated that since being diagnosed and placed on appropriate medications he has seen a great improvement with his wife. They are back together now and he attends every third session she has with her psychiatrist. He stated this is the best she has been in ten (10) years. Both he and their daughter, who is now a teenager, support her in her maintaining her mental health.

Ms. Traut testified that she and Dr. Harman did the fitness for duty on Ms. Bilbrey. They both feel she should sign a contract to help her manage the stress in her life. She was not

given a substance abuse diagnoses.

Ms. Bilbrey informed the Board that she is thinking about a job as a consultant or doing telephone work with a pharmacy. She does not want to go back to retail.

States Exhibit

A – 2016 court documents

Respondent Exhibits:

2 – Letter from social security office

3 – Letter from Ayodeji Ogunley, M.D.

4 – Fitness for duty reports

5 – CE documents

6 – Letter from Stefania Aegisdottir, Ph.D., HSPP

After having considered the evidence presented, testimony of the witnesses and taking official, judicial notice of the pleadings, evidence and orders in this matter the Board moved MODIFY the SUSPENSION Order.

The Board moved to DENY the Respondent's request to REINSTATE.

Landis/Wall, 4/1/0 with Mr. Balla opposed
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: Matt Balla
The following board members abstained: none

The Board DENIED the motion to Modify.

Fanning/Wall, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: Matt Balla
The following board members abstained: none

Patrick Carroll, D.D.S., License No. 12010982B, Cause No. 2018 IBP 0021

Respondent appeared in person and was represented by counsel Mary Feldhake regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Stacy Oliver, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

Dr. Carroll has complied with all terms of his probationary order.

He appeared before the Dental Board on June 3, 2019 and they issued a letter of reprimand.

He has completed five (5) hours of controlled substance continuing education.

After having considered the evidence and taking official, judicial notice of the pleadings, evidence and orders in the matter the Board moved to WITHDRAW the ORDER OF PROBATION.

Fanning/Landis, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Korina Flater, P.T.I.T., License No. 99090947A, Cause No. 2018 IBP 0071

Respondent appeared in person and was not represented by counsel regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Stacy Oliver, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

Ms. Flater has completed her criminal probation including eighty (80) hours of community service and twelve (12) hours of therapy.

After having considered the evidence and taking official, judicial notice of the pleadings, evidence and orders in the matter the Board moved to WITHDRAW the ORDER OF PROBATION.

Fanning/Balla, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Jamie Lalonde, Ph.T., License No. 67026933A, Cause No. 2019 IBP 0037

Respondent did not appear in person and was not represented by counsel regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Stacy Oliver, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

A settlement agreement between the Respondent and the Attorney General's Office was presented to the Board. The settlement agreement included INDEFINITE SUSPENSION for no less than one (1) year.

After reviewing the settlement agreement and taking official, judicial notice of the pleadings, evidence and orders in this matter the Board moved to APPROVE the Settlement Agreement.

Fanning/Landis, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Natalie McGuire, Ph.T., License No. 67004048A, Cause No. 2019 IBP 0042

Respondent appeared in person and was represented by counsel Jonathan Harwell regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

A settlement agreement between the Respondent and the Attorney General's Office was presented to the Board. The settlement agreement included REVOCATION of the Respondent's license.

After reviewing the settlement agreement and taking official, judicial notice of the pleadings, evidence and orders in this matter the Board moved to APPROVE the Settlement Agreement.

Fanning/Balla, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Andrew Farmer, R.Ph.I., License No. 45021009A, Cause No. 2017 IBP 0065

Respondent did not appear in person and was not represented by counsel regarding a Default Hearing scheduled before the Board. The State of Indiana was represented by Tim Weber, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

Mr. Weber requested the Board dismiss this matter as this is at least the third (3rd) time it's been scheduled and Mr. Farmer did not appear.

After discussion and taking official, judicial notice of the pleadings, evidence and orders in this matter the Board moved to DISMISS the request to withdraw probation.

Wall/Fanning, 5/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Winnie Landis, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Patricia Brant, R.Ph., License No. 26017834A, Cause No. 2019 IBP 0060
CVS #6713, License No. 60004661A, Cause No. 2019 IBP 0061

Ms. Brant appeared in person and was represented by counsel Barclay Wong and CVS #6713 was represented by counsel Patrick Brennan regarding a Summary Suspension scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and Tim Weber, Deputy Attorney General and the court reporter sworn in for this matter was Heather Orbaugh with Accurate Reporting Services.

Let the record reflect that Winnie Landis recused herself from this matter and left the room.

Zanetta Nunnally, Compliance Director, Melissa Gresham, Compliance Officer and Ashley Crawford, Compliance Officer & Educator were sworn in as witnesses for the State.

Mr. Brennan requested the Board dismiss the summary suspension request for CVS #6713 as the law indicates "individual" not a facility when it describes a summary suspension.

After discussion, the Board moved to DENY the request to dismiss.

Wall/Fanning, 4/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Donna Wall, Del Fanning, Matt Balla
The following board members voted nay: none
The following board members abstained: none

Melissa Gresham, Compliance Officer testified as follows:
She has conducted three (3) inspections of this facility. The first was in 2016 and at that time they were placed on a corrective action plan (CAP). The reason for the CAP was she found collective dust on shelves; log book was not complete; found beyond use dates on medications; nine (9) active medications return to shelf expired.

In 2016, when a CAP was issued the Compliance Officer did not necessarily go back to

see if the items listed on the CAP were corrected. Melissa indicated she did not return for a second inspection.

On August 1, 2019 Melissa completed an inspection at CVS #6713 and failed them. The failure was based partially on dirty floors, individual pills found on the floor, filthy shelves, food on the counter, bugs, unidentified medication waiting in several baskets to be destroyed in which they found a controlled substance, Acetaminophen with Codeine liquid – 1 pint in one of these baskets. Melissa took many pictures of all the issues.

Melissa also indicated that when speaking with Patricia Brant, the pharmacist in charge she didn't know what was in some of the boxes, didn't know where or how to access reports as she has her technician do all of that. She eventually got the report from the technician after he found it.

After a failure, the compliance officers do not return to the store, but they do file a complaint with the Attorney General's Office. At the request of Ryan Eldridge and Tim Weber both Deputy Attorney General's, Melissa Gresham and Ashley Crawford both Compliance Officers went back to CVS #6713 on August 30, 2019 for another inspection.

Melissa indicated that again they found expired medications and mislabeled medications on the shelf, shelves were still filthy.

Ashley Crawford testified that on the August 30, 2019 inspection the pictures in exhibit F were how they found the store to be. She verified they found pills on the floor, floor was dirty, a HIPPA form indicated that a prescription was given to the wrong person. She also stated she witnessed a box of Suboxone in view and within reach of customers. She said that a technician had set the box on the counter of the pharmacy.

Ms. Crawford also indicated that the door was not closed and secure. Pictures were taken of all the issues found.

Ms. Brant testified that she has been the PIC for this store since 1993. She stated that the dirty selves were due to a remodel that has been going on in the store (not the pharmacy) for some time, but also admitted it had been at least six (6) months since the shelves had been wiped down.

She said she was on vacation with the inspection was done on August 1, 2019. When she returned she immediately did a corrective action plan and submitted it to CVS Corporate who she assumed would send it to Ms. Nunnally.

She also indicated that on August 31, 2019 all the shelves in the store were cleaned and new carpet has since been installed.

She indicated they fill an average of twenty-eight hundred (2,800) prescriptions a week at this facility.

After the August 1, 2019 inspection Ms. Brant stated she contacted Corporate for

additional help to work on the issues documented on the inspection. She stated she was told to handle it herself.

After reporting to Corporate about the August 30, 2019 inspection, they immediately sent her help to get things in order. She stated they sent about four (4) people to assist her in getting things in order.

After having considered the evidence, testimony of the witnesses and taking official, judicial notice of the pleadings, evidence and orders in the matter the Board moved find that Patricia Brant, R.Ph. is not an immediate danger to the public and therefore DISMISSED the Summary Suspension Order.

Fanning/Balla, 3/1/0, with Ms. Wall opposing
Motion carries

The following board members voted aye:
Mark Smosna, Del Fanning, Matt Balla
The following board members voted nay: Donna Wall
The following board members abstained: none

After discussion, and having considered the evidence, testimony of the witnesses and taking official, judicial notice of the pleadings, evidence and orders in the matter the Board moved to find that CVS #6713 is a clear and immediate danger to the health and safety of the public.

Fanning/Wall, 4/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Del Fanning, Matt Balla, Donna Wall
The following board members voted nay: none
The following board members abstained: none

After having considered the evidence, testimony of the witnesses and taking official, judicial notice of the pleadings, evidence and orders in the matter the Board moved to place their license on SUMMARY SUSPENSION until they pass a new inspection. If they do not pass the Summary Suspension stay effective.

Balla/Fanning, 4/0/0
Motion carries

The following board members voted aye:
Mark Smosna, Del Fanning, Matt Balla, Donna Wall
The following board members voted nay: none
The following board members abstained: none

DISCUSSION

INSPECT:

Participating Members: Mark Smosna, R.Ph., Del Fanning, R.Ph., Donna Wall, R.Ph., Winnie Landis, R.Ph., Del Fanning, R.Ph., Matt Balla, R.Ph.

State Board of Health accepted the twenty-one (21) million grant from the CDC. In accepting this grant a requirement is for INSPECT to connect to RxCheck. With that said we can connect to it but don't have to use it. None of the twenty-one (21) million will be used to fund the RxCheck.

Ms. Slusser reached out to Appriss for an estimated cost and it will be one hundred twenty (\$120) to one hundred twenty-five (\$125) thousand to connect for the first (1st) year and approximately \$22 thousand a year thereafter.

She is currently working to complete the Support Act application for a nine (9) million dollar grant that will cover four (4) projects.

She has several conferences coming up one of which is the Purdue Veterinary conference this month.

The Board thanked Ms. Slusser for her report.

Zaneta Nunnally – Compliance Director – Report:

Participating Members: Mark Smosna, R.Ph., Donna Wall, R.Ph., Steve Anderson, R.Ph., Matt Balla, R.Ph.

Ms. Nunnally reported the following:

- 114 inspections were performed for the month of August
- 67 Pharmacies
- 16 Home Medical Equipment Facilities
- 31 Controlled Substance Registrations
- 33 Deficiencies were found
- 04 Consumer complaints filed
- 03 Pharmacy robberies for the month of August

The Board thanked Ms. Nunnally for her report.

Ambulance CSR Rule:

Participating Members: Matt Balla, R.Ph., Mark Smosna, R.Ph., Donna Wall, R.Ph., Del Fanning, R.Ph.

Matt Balla and Donna Wall volunteered to review the rule.